

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

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2006 JUN 20
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
Tony Fountain #152157
Petitioner,
VS.

Case No. _____

2:06CV548-MH
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Dr. peasant & The Health CARE
providers (H.C.P. unknown AT)
This TIME
Warden, Leon Forniss & The
Department OF CORRections &
The STATE OF ALABAMA, et, al
Respondents.

MOTION FOR AN EMERGENCY INJUNCTION
PURSUANT TO 42 U.S.C.S. 1983

Comes now, Tony Fountain, by and through himself herein
by moves this Honorable Court for the issuance of an
injunction, directing the above-named respondents to
cease in acting with "Deliberate INDIFFERENCE" by
denying and depriving the petitioner of adequate medical
attention/treatment. And in support of this motion petitioner
asserts the following facts to wit:

- 1). On or about February 20, 2006, petitioner
sign-up for sick-call as a result of
Seeing spots of blood in his stool after

defecating. And have been notices those spots of blood every time he use the restroom (defecate). On or about MARCH 1st 2006, petitioner was called over to the prison's health care unit for purpose of lab-work (the drawing of blood). Numerous lab-work has been conducted for the last three to four months. petitioner was never informed of the "lab-work" test results until he filed complaint with the prison's warden one Leon Forniss and the health care unit providers on MARCH 20, 2006.

ON OR ABOUT MARCH 21 2006, I was then called to the prison's health care unit in which Dr. Peasant conducted a prostate examination (the old fashioned way). In which Dr. Peasant confirmed the fact that blood was in my stool, where he stated "it cause to take your complaint of seeing blood in your stool seriously".

I was leaded to believe by Dr. Peasant that he was going to place me on the list for a free-world Colonostic examination appointment and was told to watch the prison's news letter for my name. At which time Dr. Peasant focus my attention away from the most serious health problem. By discussing my bad cholesterol level and good cholesterol intake. Dr. Peasant continued to have "Lab-Work" done on me concerning my cholesterol level, and talk sessions monitoring my cholesterol (bad) level.

And further informed me ~~that~~ he couldn't tell anything more about my symptoms of seeing blood in my stool. Dr. Peasant then informed me if it (my condition) got worse to come back and let them know (the Health Care workers). On or about April 24 2006, I ~~had~~ signed up for Sick-Call in order to let them know my symptoms had got worst instead of seeing spots of blood I was seeing Clots of Individual Blood in my stool after defecating.

2). And on June 6, 2006, I was called back to the prison health care unit, to see Dr. Peasant. I was scheduled to report to the health care unit at 7:30 A.M. that morning and I didn't get to see the Doctor until 4:30 p.m. lock in a cage room the whole time with ~~out~~ running water or bathroom. When I did get to see Dr. Peasant, he avoided talking to me about my appointment for a Colonoscopy. Petitioner informed Dr. Peasant his Cholesterol level was not his initial request in seeing him and that was because he had spots of blood in his stool which had worsen since his last visit with him. Thereafter asked Dr. Peasant why it was taking

So long for a Colonoscopy appointment, at which time Dr. Peasant informed petitioner that he had requested (recommended) that I be sent out for a Colonoscopy Exam. And that he didn't know if I had been approved or not. Dr. Peasant then performed another prostate exam after the petitioner told him (Dr. Peasant) that my condition had worsen since the last time he examined me. Shortly after ~~the~~ prostate examination Dr. Peasant came to an agreement with petitioner that he was bleeding more than it was the last visit with him. In other words agreed my condition and/or symptoms had worsen since the first prostate examination.

Petitioner informed Dr. Peasant of the urgency and seriousness of these symptoms and that they are associate with prostate and Colon cancers. And that prostate and Colon cancer is the number one killer among men's 40-65 years of age. Dr. Peasant responded especially among "African-American" men's therefore acted with "Deliberate Indifference" toward the seriousness and urgency of detecting, diagnosing prostate and Colon cancer in its early stages is worthy an ounce of cure/prevention. Estelle v. Gamble

429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d. 251 See
 Also 516 F.2d. 937. Petitioner states the facts that he
 not ~~get~~ nor do he participate in such activity's, the
 named respondent like to associate these symptoms with homosexuality
 among prisons.

3) Petitioner contends there have been a total
 failure on the part of the above-named defen-
 dant/respondents to provide adequate diag-
 nosis or treatment/treat such serious medical
 conditions/symptoms as of this date is deliberate
 denial of adequate medical attention. The
 health care providers had no problem collect-
 ing their inmate co-payment from my P.O.M.
 d. account on March 2 2006. And have only
 been going through the mere formality of
 providing inadequate medical assistance to
 inmate as myself. Petitioner points out the
 facts that he was convicted and sentenced on NOVEM-
 ber 18, 1988 and has been incarcerated since the
 age of 25 in the Alabama Department of Corrections
 and is now 43 years of age. The last time he
 was tested for prostate cancer (prior to this
 action) was in 1989 when he came through Kilby
 prison in 1989. The petitioner further asserts the

Facts that the ADOC has an inmate population of 28,000 men in it system, most of them are between the ages of 40-65. The age when they should be tested for prostate and colon cancers. Estelle, supra.

Petitioner contends that the Alabama Department of Corrections does not have a system in place in order to test inmates for prostate and colon cancer and many are only diagnosed with the more serious cancers in its critical stages, Estelle v. Gamble 501 U.S. 251 or after their demises. Petitioner presents the question "What do I have to do with until I'm the next victim? In other word for the Respondents start taking my symptoms seriously (cancer). Such for instant inmate Rufus Vine #146409, were taken out to a free-world appointment on June 6, 2006 for a cut on his left leg while playing baseball 10 days after receiving the cut. And here I been complaining about my symptoms since February 20 2006. If this not in out right "deliberate indifference" to my serious medical claim I don't know what else is any more. Ask yourself the questions what other

then a possible amputation of Mr. Vine left leg and petitioner stands the chance of losing his life. Estelle, supra. Petitioner contends that he been waiting for diagnosis of his symptoms and a possible treatment 3 1/2 months and the Respondents and theirs agents have acted with "deliberate Indifference" in diagnosing his symptom that is associate with prostate and Colon Cancers and in treating it. Estelle, supra.

4). petitioner further contends that the above named Respondents do not have any type of preventive measure in place, such as a proper diet like fruits, fresh vegetables. The lack of Vitamin C can increase the possibility of contracting Colon or prostate cancers. And that petitioner have been incarcerated over 18 years without any such Vitamin C etc---

MOREOVER petitioner contends that he have also been denied access to the prison's Eye doctor, on or about October 31, 05 I signed up to see the Eye doctor. I was called over to the health care unit to sign the inmate co-payment list, at which time the

Health care nurse on duty only took my Blood Pressure, Temperature and informed me to keep in Eye on the prison's inmate news letter for my name. The nurse never once attempted to perform in Eye Examination (By allowing me to Read the Eye Chart). I explained to the nurse that when I Read book or letters the words runs together. Therefore I returned to the inmate prison's population and did what I were instructed to do (watch for my name on news). Petitioner contends since October 31, 05 the Eye doctor have made numerous visit to the prison's and has yet to examine the petitioner. During such visit I have attempted to talk with the nurses and Eye doctor, and have been stopped at the law library door by the DOC officials. I attempted to inform those officials on numerous occasions that I have been waiting to be examined by the Eye doctor since last October 31, 05. Petitioner points out the fact that the named Respondents and their agents never had any problems with deducting their co-payment from money received by the petitioner. Petitioner contends after all these fail attempts to see the prison's Eye doctor he

Shortly thereafter Filed a Complaint with the prisons warden one Leon Forniss, in which he Explained the Facts that he need some reading glasses and that if DOC didn't want to pay for them that his Family would. And that it was (not being able to see word while reading) interfering with ^{the} ~~of~~ Pursue ^{of} my Criminal litigations with which would deny me access to the Court. (see attached Exhibits - A & B Complaints). Petitioner contends after he Filed the Complaint with the warden and health care unit, a nurse Ellis deliberately lied and said "petitioner didn't meet the criteria of 20/40. And said in response to his Complaint that petitioner had 20/25 Vision in both Eyes. However petitioner happened to be at the health care unit the day after nurse Ellis wrote & responded to the warden on the Complaint. (Attached to his Complaint a postal note (yellow)) petitioner asked nurse Ellis why did he lie about his Vision being 20/25 when petitioner was never examined by any nurse on 10-31-05. Nurse Ellis stated I be back and must have fell guilty, because he never come back; but prior to leaving he did state he didn't

Knows where he got that reading from. petitioner
Contenteds that his health is in controversy
of seeing Clots of Individual Blood in his
Stool, and Every day the Respondents and
theirs Agents deny him adequate medical
Treatment and diagnosis the more these
symptoms (disease) progresses in his body to
the point of causing petitioner his life.
Estelle v. Gamble 501 U.S. 251.

Wherefore, petitioner prays that this Honorable
Court Issue (2) his Motion For an Emergency
injunction as soon as possible and as Law and
Justice Requires.

Done on this 11th day of June 2006



AFFIRMED AND SUBSCRIBED
by me James H. Lindsey, Jr. on
this 11th day of June

2006, My Commission Expires: 1/28/08
James H. Lindsey, Jr.
Elmore, AL

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Petitioner,

Case No. _____

VS.

DR. PEASANT & The Health
Care providers (H.C.P. unknown)
Warden, Leon Forniss, Depart-
ment of Corrections & The State
of Alabama, et al.,
Respondents.

AFFIDAVIT

My name is Tony Fountziv. The affiant(s) in the
above cause and I am over 21 years of age and can
testify to the facts herein in any court of law.
I asserts the following facts are true and correct to
the best of my knowledge and belief. On or about
February 20, 2006, I signed up for sick-call as a re-
sult of seeing spots of blood in my stool after defec-
ting. Numerous of lab-work test have been conduct on
me within the last 3 1/2 months on numerous occasions.
The first was on March 1 2006 and several time thereafter.

The symptoms I was experiencing on February 29 2006 have worsen since then. Such as where I was seeing spots of blood in my stool, now I'm seeing clots of blood (Individually) in my stool.

First, petitioner point out the facts that he is not say NOR does he participate in such monstrosity NOR does he condone it the Health care providers like to put all inmates in one Big Box by associating the symptoms I'm experiencing with homosexuality. I noticed warden Forniss and my family's have phoned him numerous time, because after the phones calls I was called by him whom informed of the nature of calls from my family's. They also have phoned the Commissioner of the D.O.C. office of Richard Allen. But the respondents and theirs agents have yet to diagnose my symptoms OR to test me as of this date. petitioner stresses facts that the day to day worrying of not knowing if he's going to wake in which it have made it difficult for me to get any sleep. petitioner further stress the facts the respondents does not have a system in place to proper test inmates for prostate and colon cancers. And when the affiant(s) come to prison he was no within the age where prostate and colon cancers were prevalence

in men's Ranging the age of 25 years of age. Petitioner also points out the facts prior to his Medical Complaint of 2-22-06, he was only tested once and they when he came through Kilby Prison in 1989. And the disease of prostate and Colon Cancer are more prevalence in men's Petitioner age group 40-65, and is the number one killer of "African-American" men who are the majority of the Alabama prison's system. On June 6, 2006 inmate Rufus Vine went out to a free-world appointment for a small cut he received on his left leg while placing baseball on May 27 06. Also on this date Dr. Present conducted another prostate exam and determined my symptoms has worsen since my last visit. Petitioner stress the fact that every day the respondent spend in delaying petitioner diagnosis, and treatment the more possibility the symptoms will progress in the petitioner body placing his health and life in danger. ANYTHING FURTHER YOUR AFFIANT(S) SAYTH NOTHT !

Done this 11th day of June 2006

AFFIRMED AND SUBSCRIBED
Before me James H. Lindsey

On this 11th day of June
2006. My Commission Expires 1/28/08

James H. Lindsey
Elmore, AL